

ORIGINAL

LAW OFFICES

FENNEMORE CRAIG

A PROFESSIONAL CORPORATION



0000009628

PATRICK J. BLACK

Direct Phone: (602) 916-5400

Direct Fax: (602) 916-5600

pblack@fclaw.com

OFFICES IN:

PHOENIX, TUCSON,

NOGALES, AZ; LINCOLN, NE

3003 NORTH CENTRAL AVENUE

SUITE 2600

PHOENIX, ARIZONA 85012-2913

PHONE: (602) 916-5000

FAX: (602) 916-5999

September 9, 2004

HAND DELIVERY

Brian Bozzo, Compliance Manager
Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

SEP - 9 2004

DOCKETED BY

CR

AZ CORP COMMISSION
DOCUMENT CONTROL

2004 SEP - 9 A 11:44

RECEIVED

Re: Johnson Utilities Company: Compliance with Decision No. 65840
Non-compliance letter from ADEQ dated September 2, 2004
WS-02987A-99-0583; WS-02987A-00-0618

Dear Mr. Bozzo:

On September 2, 2004, Johnson Utilities Company ("Johnson") received a letter from the Arizona Department of Environmental Quality ("ADEQ") regarding the compliance status of MGD Precision Golf Course Wastewater Treatment Plant, Permit No. P-103081, attached hereto as Exhibit No. 1.

Decision No. 65840 (April 22, 2003) requires that:

In the event that JUC receives any Notices of Violation ("NOV") from ADEQ, it will within seven days from receipt of such notice, provide a copy of such NOV to the Utilities Division Director ("Director"). Subsequent to the transmission of such NOV, JUC will continue to provide copies to the Director of all relevant documents, including but not limited to any documents, or pleadings filed with ADEQ and or by JUC relating to the NOV and the steps JUC takes to come into compliance, until the ultimate resolution of the NOV.

...

...

...

FENNEMORE CRAIG

Brian Bozzo, Compliance Manager

September 9, 2004

Page 2

Johnson will continue to provide the Utilities Division with any correspondence between Johnson and ADEQ regarding this matter until final resolution. In the meantime, if you have any questions or concerns, please do not hesitate to call me. Thank you for your time and consideration in this matter.

Very truly yours,



Patrick J. Black

cc: Brian Tompsett, Johnson Utilities (w/out enc.)
Ernest Johnson, Utilities Director (w/enc.)
Steve Olea, Assistant Director (w/enc.)
Docket Control (w/enc.)

1583415.1/51239.001

EXHIBIT

1



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.adeq.state.az.us



Stephen A. Owens
Director

CERTIFIED MAIL
Return Receipt Requested
FS#05-197

September 2, 2004

Brian Tompsett, Vice President
Johnson Utilities Company
5230 E. Shea Blvd., Suite 200
Scottsdale, AZ 85254

Subject: MGD Precision Golf Course WWTP, Place ID 142

Dear Mr. Tompsett:

The attached Notice of Violation ("NOV") is an informal compliance assurance tool used by ADEQ to put a responsible party (such as a facility owner or operator) on notice that the Department believes a violation of an environmental requirement has occurred. It describes the facts known to ADEQ at the time of issuance and cites the requirement that ADEQ believes the party has violated. The attached NOV is based upon a file review recently conducted by ADEQ during the month of August 2004.

Although ADEQ has the authority to issue appealable administrative orders compelling compliance, an NOV has no such force or effect. Rather, an NOV provides the responsible party an opportunity to do any of the following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3) document that the violation has been corrected.

ADEQ reserves the right to take a formal enforcement action, such as issuing an administrative order or filing a civil lawsuit, regardless of whether the Department has issued an NOV. Neither ADEQ's issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, the timeliness of a complete response to this notice will be considered by ADEQ in determining if and how to pursue such remedies.

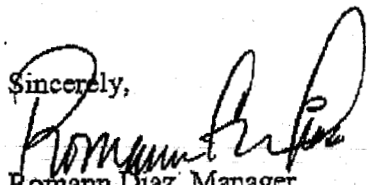
Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

MGD Precision Golf Course WWTP
Notice of Violation
September 2, 2004

If you should have any questions please contact me at (602) 771-4814, or Bill Hare at (602) 771-4838.

Sincerely,



Romann Diaz, Manager
Water Quality Field Services Unit

cc: **By U.S. Mail:**

Reg Glos, Pinal County Health Department
P.O. Box 868
Florence, AZ 85232

By Interoffice Mail:

Michele Robertson, Manager, WPS, ADEQ

Vivian Burns, Program and Project Specialist I, WQCS, ADEQ

Don Shroyer, Manager, WQDU, ADEQ

Facility File

Reading File



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street Phoenix, Arizona 85007
(602) 771-2300 www.adeq.state.az.us



Stephen A. Owens
Director

CERTIFIED MAIL
Return Receipt Requested

Case ID #: 32021

September 2, 2004

Johnson International Inc
Attention: Brian Tompsett
5230 E Shea Blvd Ste 200
Scottsdale, AZ 85254-5750

Subject: MGD Precision Golf Course WWTP, 142
1877 E Bella Vista Rd / Queen Creek, AZ 85242

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ), has reason to believe that Johnson International Inc as the owner/operator of MGD Precision Golf Course WWTP, has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, administrative order or civil judgment. ADEQ discovered the violations alleged below during a file review completed on August 23, 2004.

I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATION(S)

1. Permit 24069 (P103081) - Section 4.0

The permit limit for daily Fecal Coliform monitoring is 800 c.f.u./100ml.

During the 2nd quarter of 2004, the facility exceeded the permit limit on 58 occasions with results >1600 c.f.u./100ml

2. Permit 24069 (P103081) - 2.63

If the verification sampling confirms that the Discharge Limit (DL) has been exceeded the permittee shall immediately investigate the cause of the violation and submit the results of the investigation to ADEQ.

During the months of April, May and June of 2004 the DL for fecal Coliform was exceeded on 58 occasions and the no immediate steps were taken to investigate the cause of the exceedances.

3. Permit 24069 (P103081) - 4.0

The permit limit for Total Nitrogen in the effluent is 10.0 mg/L

During the months of December 2003 - 20.36 mg/L, January 2004 - 15.81 mg/L, and February 2004 - 17.70 mg/L the facility had Total Nitrogen exceedances.

4. Permit 24069 (P103081) - 2.63

The permittee shall conduct verification sampling within 24 hours of becoming aware of DL exceedances.

Northern Regional Office
1515 East Cedar Avenue Suite F Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street Suite 433 Tucson, AZ 85701
(520) 628-6733

Printed on recycled paper

The facility failed to conduct verification sampling for the Total Nitrogen exceedances.

II. DOCUMENTING COMPLIANCE

1. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an explanation regarding the cause of the Fecal Coliform exceedances during the 2nd quarter of 2004. Please include any corrective actions implemented to prevent a reoccurrence of these violations.

III. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

Arizona Department of Environmental Quality, Attention: William J. (Bill) Hare, Water Quality Field Service Compliance Unit, 1110 W Washington St, Phoenix, AZ 85007 MC: 5415B-1

IV. STATEMENT OF CONSEQUENCES

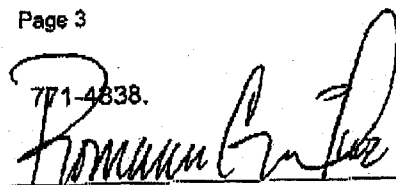
1. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, substantial civil penalties, and/or the suspension or revocation of an applicable permit/license. ADEQ will agree to extend the time frames only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in this Notice as allowed by law.

V. OFFER TO MEET

ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact William J. (Bill) Hare at (602)

Notice of Violation
MGD Precision Golf Course WWTP
September 2, 2004
Page 3

771-4838.


Romann G. Diaz, Manager
Water Quality Field Service Compliance Unit


William J. (Bill) Hare
Water Quality Field Service Compliance Unit